

MINUTES
LAWTON CITY COUNCIL REGULAR MEETING
JULY 12, 2016 – 6:00 P.M.
NEW CITY HALL
COUNCIL CHAMBERS/AUDITORIUM

Fred L. Fitch, Mayor
Presiding

Also Present:
Jerry Ihler, City Manager
Frank V. Jensen, City Attorney
Traci Hushbeck, City Clerk
COL Samuel Curtis, Fort Sill Liaison

Mayor Fitch called the meeting to order at 6:04 p.m. Notice of meeting and agenda were posted on the City Hall notice board as required by law. Invocation was given by Reverend John C. Thompson, followed by the Pledge of Allegiance.

ROLL CALL

PRESENT:

Bob Morford, Ward One
Keith Jackson, Ward Two
Rosemary Bellino-Hall, Ward Three
Jay Burk, Ward Four
Dwight Tanner, Jr., Ward Five
Cherry Phillips, Ward Six
V. Gay McGahee, Ward Seven
Doug Wells, Ward Eight

ABSENT:

None

PRESENTATION OF OKLAHOMA STATE COMMENDATION AWARDS FROM THE
OKLAHOMA ASSOCIATION OF CHIEFS OF POLICE

Chief James Smith, Lawton Police Department, presented the Oklahoma State commendation awards from the Oklahoma Association of Chiefs of Police to Austin Benton, Troy Durham, Eric Carter, Patrick Bellamy and Jessica Carter. He acknowledged Abraham Woelfel, Officer of the year for Oklahoma.

PRESENTATION OF OUTSTANDING CITIZEN OF COMANCHE COUNTY TO DR. TOM
DEIGHAN

Mayor Fitch presented a Certificate of Commendation from the Mayor's Office to Dr. Tom Deighan.

EMPLOYEE SPOTLIGHT PRESENTATION TO CASEY SIDES AND MICHAEL MCCOLLUM - LANDFILL DIVISION

The City Manager recognized Casey Sides and Michael Mccollum, Landfill Division, for their outstanding performance.

RECEIVE UPDATE FROM COMANCHE COUNTY EMERGENCY MANAGEMENT DIRECTOR MICHAEL MERRITT

Michael Merritt, Comanche County Emergency Management Director, provided an overview of the situation that occurred on June 12, 2016 with the flooding that affected Comanche County.

Susheel Kumar, Public Information Officer for the U.S. Small Business Administration, stated they assist businesses, most non-profits, homeowners with mortgages and personal property of homeowners and renters. The dollar limitation is \$40,000 and the funds are repaid at 1.62% for up to 30 years. They will be set up at the Great Plains Coliseum for several days.

AUDIENCE PARTICIPATION:

John Hoffman, 310 NW 63rd Street, questioned if the alarm committee has solidified anything yet.

Ihler stated they have had the last meeting with the committee and staff is working on the final ordinance to bring to the council.

Mr. Hoffman questioned if citizens would have any input.

Ihler stated yes, when the ordinance comes before the council for approval. He hopes to get it on the next council meeting but he has not seen the final version.

Mr. Hoffman questioned if the current excessive alarm policy is in effect.

Ihler stated it would be in effect until they revise the ordinance.

Mr. Hoffman questioned why over 6,500 alarms were not justified but yet zero citations have been issued.

Ihler stated no citations have moved forward to the courts. He cannot address why this has happened.

Jackson stated we have had a severe manning problem within our police department and it takes a lot of time to check on these alarms which takes them away from things they should be doing. He applauded the efforts of city staff and he feels the proposed ordinance will be beneficial to the public.

CONSENT AGENDA:

Burk requested that the William and Laura Borck claim on item #1 be considered separately.

MOVED by Wells SECOND by Jackson to approve the consent agenda with the exception of the Borck claim on item #1. AYE: Morford, Jackson, Bellino-Hall, Burk, Tanner, Phillips, McGahee, Wells. NAY: None. MOTION CARRIED.

1. Consider the following damage claims recommended for approval: Wanda Davis in the reduced amount of \$4,193.46 (**RES 16-49**) and William and Laura Borck in the reduced amount of \$1,832.32. Exhibits: Legal Opinions/Recommendations, Resolution 16-____ and Resolution 16-____.

Burk stated Mr. Borck contacted him because the approved amount was less than what they submitted and he feels they should receive the entire amount. He stated Mr. Borck is here to address the council.

William Borck, claimant, stated from April to June of last year he had sewage in his yard for five weeks. He had to rent a pump and stay in hotels on multiple occasions. When they filed the claim his wife had to deal with all this paperwork and he feels her asking for the \$40 is completely justified.

Mayor Fitch questioned the amount Mr. Borck was requesting.

Mr. Borck stated he is requesting \$2,105.07.

Kelea Fisher, Assistant City Attorney, stated staff did recommend a reduced amount. They did submit a requested amount of \$290 for 40 hours of organizing paperwork and included in that time was time spent meeting with an attorney. Staff did not recommend paying for that portion of the claim because they felt that 40 hours for organizing paperwork was excessive.

Phillips questioned if we have paid for this sort of thing in the past.

Jensen stated we have never paid for the time spent preparing a claim or consulting with an attorney. Staff was generous and recommended 8 hours because there was more paperwork involved. We have never paid for the time someone has spent to file a claim.

MOVED by Burk SECOND by Jackson to approve **Resolution 16-50** approving the damage claim of William and Laura Borck in the amount of \$2,105.07. AYE: Jackson, Bellino-Hall, Burk, Tanner, Phillips, Wells. NAY: Morford, McGahee. MOTION CARRIED.

2. Consider the following damage claim recommended for denial: Margaret Wolfenbarger in the amount of \$415.00. Exhibits: Legal Opinion/Recommendation.
3. Consider approving a professional services agreement retaining the law firm of Hawkins, Delafield & Wood LLP as Disclosure Counsel in connection with the issuance of the

City's General Obligation and other Bonds that must comply with applicable municipal securities regulations including continuing disclosure requirements regarding the City's financial statements and annual financial information/operating data relating to each Bond Issue. Exhibits: Letter of Engagement from Hawkins, Delafield & Wood (on file in City Clerk's Office).

4. Consider authorizing the Mayor – as the City's representative on the consortium of Local Elected Officials of the South Central Oklahoma Workforce Investment Area - to execute a fiscal agent agreement retaining the Central Oklahoma Workforce Investment Board, Inc. as the grant recipient/fiscal agent for the South Central Oklahoma Workforce Area. Exhibits: Proposed Fiscal Agent Agreement for the South Central Workforce Area.
5. Consider approving an Agreement between the City of Lawton and the Marie Detty Youth and Family Service Center, Inc. for the continued operation and management of the Community Intervention Center in Lawton and authorize execution of the Agreement and any associated documents. Exhibits: Agreement with Marie Detty Youth and Family Service Center, Inc. is on file in the City Clerk's Office.
6. Acknowledge receipt of election returns of June 28, 2016. Exhibits: Official Certification of Votes from Comanche County Election Board.
7. Consider approving a resolution granting the City Manager the authority to implement a Wellness Incentive Program for FY 16-17 for all employees, which would provide an additional day off for those employees who meet all of the requirements of the program. Exhibits: **Resolution No. 16-51** and 2016-2017 City in Motion Schedule of Events.
8. Consider approving a lease agreement between the City of Lawton, Oklahoma, a municipal corporation, the Lawton Water Authority, and the Board of County Commissioners of Comanche County, Oklahoma regarding Ahlshlager Park, and authorize the Mayor and City Clerk to execute any necessary documents. Exhibits: Lease Agreement.
9. Consider declaring one (1) 1984 Sutphen 100' Aerial Fire Apparatus surplus City Property to then be disposed of by public sale or sealed bids as determined by the City Manager in accordance with the provisions of Section 10-4-406 of the Lawton City Code, and authorizing the proceeds of the sale to be deposited into and appropriated from the City's Rolling Stock Fund as partial payment for the purchase of a Fire Department Rehab Unit approved in the City's FY 2016 -17 budget. Exhibits: Estimated Value Memorandum from Equipment Maintenance Superintendent.
10. Consider adopting a Resolution authorizing the installation and/or removal of traffic control measures on NW 16th and Pollard and 1605 NW 45th. Exhibits: **Resolution 16-52**, Traffic Commission Minutes and Traffic Issue Requests.
11. Consider terminating contract (RFPC15-013) Everbridge, Inc. of Glendale, CA (Emergency Notification System) which is set to expire 11-30-2016. Exhibits: None.

12. Consider amending contract (RFPCL15-023) for Jail Inmate Phone System with Legacy Inmate Communications, Cypress, CA to bring into compliance with new Federal Communications Commission requirements. Exhibits: Amendment to Contract Form and Information Letter explaining new regulation requirements.
13. Consider extending contract for Corrosion Inhibitor Program to Thornton, Musso & Bellemin, Inc. of Zachary, LA for an additional year. Exhibits: Department Recommendation, Contract Extension Form, Price Sheet.
14. Consider extending contract for Concrete Repair to Alfred Espinoza (Primary – Bid #1, items 1a-1d) of Lawton OK and Allison Excavation (Secondary – Bid #2, items 1a-1d) of Cache, OK for an additional year. Exhibits: Department Recommendation, Contract Extension Form, Price Sheet.
15. Consider approval of payroll for the period of June 20 - July 3, 2016.

OLD BUSINESS ITEMS:

16. Consider approving an Ordinance amending Sections 12-1-102 through 12-1-110; and repealing Sections 12-1-111 through 12-1-126; Article 12-1, Chapter 12, Lawton City Code, 2015, regarding Food Service Sanitation, by establishing regulations for the different types of food-service establishments and reflecting the restructuring of the Comanche County Health Department as provided by state law. Exhibits: Ordinance 16-__.

Richard Rogalski, Community Services Director, stated mobile food-service establishments (food trucks) have become very popular all over the nation. The City of Lawton has seen an increase in the number of mobile food-service establishments around town. It has become a concern that there are currently very few regulations in city code that address the operations of mobile food-service establishments. The proposed ordinance will update the current code to match what the state requires for mobile food-service establishments, and provides for a temporary permit that will allow mobile food-service establishments to operate on city-owned property such as parks. The code also reflects the restructuring of the Comanche County Health Department as provided by state law. Our code was written to copy the state health rules and since then the state has changed their rules multiple times and we haven't. Now it is line with state statute because it references the state in terms of most of those health violation issues. With food establishments there are two areas, the health department side and the City's requirements on the other side. At the last meeting there was discussion on the definition for a fixed food establishment. A fixed food establishment is a license that a restaurant would get, so the definition is now an establishment that is permanent in nature and complies with all state and city ordinances. The mobile food is a vehicle mounted and is only there for 12 hours out of any 24 hours and that is exactly in compliance with state statute as well. The food licenses are set up in different categories. Seasonal can be there for six months at a time but they can only sell certain items. Temporary can be there for a short event and have to be part of an event. There are three types of mobile, a push cart, the mobile that is retail only and mobile food preparation and sales which has a full kitchen and they are making foods. They are there for 12 hours and they have to clean it out every night. For the food trucks we created a new three day permit for setting up on

city property. They excluded anyplace that currently has concession sales. For permitted events, mobile food trucks can go out there under that permit.

Jackson stated that a food truck would have to contract with the Freedom Festival administration in order to participate in the event.

McGahee stated at the last meeting she questioned why our ordinance was not matching state code and the committee did change it to where the fixed establishment is actually matching what it says in state code. She has talked to some citizens and owners of food trucks and they are excited at the possibility of having a food truck park night. That is something we need to look at.

Phillips stated in the ordinance it states something about restructuring of the Comanche County Health Department. She questioned what the phrase means.

Rogalski stated as time went on they changed some of the definitions and some of the language of the requirements in their code and we had not. We modified our code so that we are all the same.

Sterling Bailey, 3413 Abilene Drive, stated he has an F45 license to operate from the health department which entitles a mobile trailer to operate and to stay still. If you have a 45M you have to move every 12 hours. The City told him there was no way a trailer could set up and operate. Right now trailers don't have to move. When he opened up the city told him he didn't have the right to operate because he hasn't invested enough money. He doesn't understand why he doesn't have the right to operate. He stated he is the first black trailer to set up and this is a racial issue.

Wells stated the City has the right to have rules that are different than the county for all city property. We have those on everything we do.

Mayor Fitch stated Mr. Bailey was given a stack of documents and if he wants a trailer there he has to operate it as a fixed operation and meet all the codes of a permanent established restaurant.

Mr. Bailey stated no there is a license...

Wells stated there may be a county license for county property, but not the city.

Mr. Bailey stated there is a snow cone trailer that operates under the same license as him, and they are allowed to stay still. They are white and he is black. Why can they continue to operate.

Mayor Fitch requested Mr. Bailey leave the council chambers.

MOVED by Wells SECOND by Jackson to adopt **Ordinance 16-18**, to include amending the dates, waive the reading of the ordinance, read the title only and establishing an effective date of August 12, 2016. AYE: Morford, Jackson, Bellino-Hall, Burk, Phillips, McGahee, Wells. NAY: Tanner. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 16-18

An ordinance amending Sections 12-1-102, through 12-1-110; and repealing Sections 12-1-111 through 12-1-126, Article 12-1, Chapter 12, food and food service establishments, Lawton City Code, 2015; by establishing regulations for four types of food-service establishments; reflecting the restructuring of the Comanche County Health Department as provided by state law; providing for renumbering; providing for severability; and establishing an effective date.

17. Consider approving a Resolution amending Appendix A, Schedule of Fees and Charges, Lawton City Code, 2015, to amend the fees associated with food service establishments and providing an effective date. Exhibits: Resolution 16-__.

MOVED by Wells SECOND by Jackson to adopt **Resolution 16-53**. AYE: Morford, Jackson, Bellino-Hall, Burk, Phillips, McGahee, Wells. NAY: Tanner. MOTION CARRIED.

NEW BUSINESS ITEMS:

18. Consider holding a public hearing and authorizing the Lawton Police Department to submit an application for a 2016 Department of Justice Edward Byrnes Assistance Grant Local (JAG). Exhibits: None.

Assistant Chief James Apple, Lawton Police Department, stated the Memorandum of Understanding was approved by Comanche County Board of Commissioners on July 5, 2016. The grant has been submitted with a hold clause that says we have to meet requirements. We have met those requirements. The total amount of the grant is \$81,925.00. The City of Lawton's portion is \$65,540.00 with \$16,385.00 going to the Comanche County Sheriff's Department, which is an 80/20 split.

Jackson questioned what the grant will be used for.

Chief Apple stated it will be used for equipment and technology. A detailed budget summary is included in the agenda item. The main ticket items will be to buy a server and scanners to digitally archive police records.

PUBLIC HEARING OPENED. No one appeared to speak and the public hearing was closed.

Chief Apple distributed a sheet of major items they have purchased from the grant since 2009.

Jackson stated it looks like the grant money has been put to good use.

MOVED by Wells SECOND by Burk to authorize the Lawton Police Department to submit an application for a 2016 Department of Justice Edward Byrnes Assistance Grant Local (JAG). AYE: Morford, Jackson, Bellino-Hall, Burk, Tanner, Phillips, McGahee, Wells. NAY: None. MOTION CARRIED.

19. Hold a public hearing and consider a resolution amending the 2030 Land Use Plan from Residential/High Density to Commercial and an ordinance changing the zoning from R-3 Multiple Family Dwelling District to C-5 General Commercial District zoning classification on property located at 1207 SW 16th Street. Exhibits: Resolution No. 16-__, Ordinance 16-__, with Site Plan, Location Map, Applications and Draft CPC Minutes.

Rogalski stated this request is for Lots 1 and 2, Block 42, Waldman Addition, which measure 150 feet by 298.5 feet. The property owner is Dan Mullins, Inc. The proposed use is storage parking for Fleet Way Auto Sales which is located on Lots 3 and 4, abutting Lee Boulevard. The zoning of the surrounding area is R-3 to the north and east, C-5 to the south, and P-F Public Facilities District to the west. The land use of the surrounding area is drainage channel to the north, commercial (Fleet Way Auto Sales) to the south, single-family residential and commercial to the east, and the Fire Marshal's offices and Lawton Public School agricultural facilities to the west. The 2030 Land Use Plan designates these lots as Residential/High Density. The current use of the lots is vacant. On June 16, 2016, the City Planning Commission (CPC) held a public hearing on this request. During the public hearing no one spoke for or against the request. The CPC, by a vote of 6 – 2, recommended approval of the request and binding site plan.

Phillips questioned if Mr. Mullins currently owns the property.

Rogalski stated yes, he purchased the property and has requested the rezoning.

PUBLIC HEARING OPENED. No one appeared to speak and the public hearing was closed.

MOVED by Phillips SECOND by McGahee to adopt **Resolution 16-54** amending the 2030 Land Use Plan from Residential/High Density to Commercial. AYE: Morford, Jackson, Bellino-Hall, Burk, Tanner, Phillips, McGahee, Wells. NAY: None. MOTION CARRIED.

MOVED by McGahee SECOND by Phillips to adopt **Ordinance 16-19**, to include amending the dates, waive the reading of the ordinance, read the title only. AYE: Morford, Jackson, Bellino-Hall, Burk, Tanner, Phillips, McGahee, Wells. NAY: None. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 16-19

An ordinance changing the zoning classification from the existing classification of R-3 Multiple-Family Dwelling District to C-5 General Commercial District Zoning classification on the tract of land which is hereinafter more particularly described in section one (1) hereof; approving the site plan attached as Exhibit A; and authorizing changes to be made upon the official zoning map in accordance with this ordinance.

20. Consider an ordinance pertaining to Personnel Policies and Procedures amending Section 17-2-9-201, 202, 203 and 208, Division 17-2-9, Article 17-2, Chapter 17, Lawton City Code, by restructuring and reforming the current employee advisory committee (EAC), redefining the general employee groups the EAC members represent, creating an “at-large” member, establishing terms of office, providing for severability and establishing

an October 1, 2016 effective date. Exhibits: Ordinance 16-__.

Chase Massie, Human Resources Director, stated this would restructure the current Employee Advisory Committee (EAC) so that the members represent employees that are in their general vicinity.

MOVED by Wells SECOND by Phillips to adopt **Ordinance 16-20**, to include amending the dates, waive the reading of the ordinance, read the title only and establishing an effective date of October 1, 2016. AYE: Morford, Jackson, Bellino-Hall, Burk, Tanner, Phillips, McGahee, Wells. NAY: None. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 16-20

An ordinance pertaining to personnel policies and procedures amending Sections 17-2-9-201, 202, 203 and 208, Division 17-2-9, Article 17-2, Chapter 17, Lawton City Code, 2015, by restructuring and reforming the current Employee Advisory Committee (EAC), redefining the general employee groups the EAC members represent, creating an “at-large” member, establishing terms of office, providing for severability and establishing an October 1, 2016 effective date.

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

COL Curtis reported that the Fire Center of Excellence will be holding their change of command on Thursday, July 21, 2016.

McGahee stated there is an effort to restore the Dunbar School and this past Saturday they had 21 people working on replacing windows and cleaning up the building. This Saturday there will be a block party and community clean up from 9:30 a.m. to 2:00 p.m.

Phillips stated she attended a meeting about a national organization call Finally Home. The meeting was sponsored by City National Bank and the Chamber. A local contractor has volunteered to build a home for a veteran. It will all be paid for and businesses from the community will come together and donate items for the home. There will be fundraising events held to support the effort. They have built 25 homes across the United States.

Burk thanked everyone for their work on the Freedom Festival. He stated the committee did an outstanding job. He stated a Beach Bash/Move Night will be held at the day use area at Lake Lawtonka on August 5th from 4 p.m. to 12 a.m. The cost is \$5 per person, 12 and under is free. This is a fundraiser which will benefit the Lawton Police Department, Lawton Fire Department, Lawton Animal Welfare and Fix Lawton. He stated this is really not a city sponsored event, this is a Team Russell event. He stated his company will put money forward to make sure they will have the movie and the paint. He stated more information will be available in the future.

Jackson thanked the city council for supporting the Freedom Festival event and allowing funding for the event. He stated it was a great event. He thanked Billie Whipp for all her hard work.

Ihler stated there has been some concern about the tint of the water. He stated Lake Ellsworth water has had some of the highest manganese that we have ever seen. He stated they switched over to Waurika water and hopefully everyone will see some improvement soon. He stated he attended a meeting with the KCA as it relates to the demotion of the southwestern hospital. He stated he will forward an email to the council regarding some requests. Hopefully there is some progress in moving this forward.

The Mayor and Council convened in executive session at 7:44 p.m. and reconvened in regular, open session at 8:52 p.m. Roll call reflected all members present.

EXECUTIVE SESSION ITEMS:

21. Pursuant to Section 307B.1, Title 25, Oklahoma Statutes, consider convening in executive session to review the Employment Agreement of Nathan M. Johnson as Municipal Judge, and in open session take other action as necessary. Exhibits: None.

Mayor Fitch read the title of item #21. No action was taken.

22. Pursuant to Section 307B.1, Title 25, Oklahoma Statutes, consider convening in executive session to review the Employment Agreement of Frank V. Jensen as City Attorney, and in open session take action as necessary. Exhibits: None.

Mayor Fitch read the title of item #22.

MOVED by Wells SECOND by Phillips to amend the City Attorney's contract to conform to a recently enacted ordinance creating the categories of historical and new sick leave and to continue to buy down the City Attorney's accrual of historical sick leave in the amount of 100 hours per year during the last pay period in December each fiscal year until his historical sick leave reaches less than 100 hours at which time the remaining balance less than 100 hours shall be bought and there shall be no more remaining historical sick leave that can be used as terminal leave. AYE: Morford, Jackson, Bellino-Hall, Burk, Tanner, Phillips, McGahee, Wells. NAY: None. MOTION CARRIED.

There being no further business to consider, the meeting adjourned at 8:54 p.m. upon motion, second and roll call vote.

FRED L. FITCH, MAYOR

ATTEST:

TRACI HUSHBECK, CITY CLERK